

1 AN ACT

2 RELATING TO LIQUOR LICENSING; INCREASING THE FEES FOR  
3 CERTAIN LICENSES; INCREASING THE APPLICATION FEE FOR A  
4 LIQUOR LICENSE.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. Section 60-6A-15 NMSA 1978 (being Laws  
8 1981, Chapter 39, Section 32, as amended) is amended to  
9 read:

10 "60-6A-15. LICENSE FEES. -- Every application for the  
11 issuance or renewal of the following licenses shall be  
12 accompanied by a license fee in the following specified  
13 amounts:

14 A. manufacturer's license as a distiller, except  
15 a brandy manufacturer, three thousand dollars (\$3,000);

16 B. manufacturer's license as a brewer, three  
17 thousand dollars (\$3,000);

18 C. manufacturer's license as a rectifier, one  
19 thousand fifty dollars (\$1,050);

20 D. wholesaler's license to sell all alcoholic  
21 beverages for resale only, two thousand five hundred dollars  
22 (\$2,500);

23 E. wholesaler's license to sell spirituous  
24 liquors and wine for resale only, one thousand seven hundred  
25 fifty dollars (\$1,750);

1 F. wholesaler's license to sell spirituous  
2 liquors for resale only, one thousand five hundred dollars  
3 (\$1,500);

4 G. wholesaler's license to sell beer and wine  
5 for resale only, one thousand five hundred dollars (\$1,500);

6 H. wholesaler's license to sell beer for resale  
7 only, one thousand dollars (\$1,000);

8 I. wholesaler's license to sell wine for resale  
9 only, seven hundred fifty dollars (\$750);

10 J. retailer's license, one thousand three  
11 hundred dollars (\$1,300);

12 K. dispenser's license, one thousand three  
13 hundred dollars (\$1,300);

14 L. canopy license, one thousand three hundred  
15 dollars (\$1,300);

16 M. restaurant license, one thousand fifty  
17 dollars (\$1,050);

18 N. club license, for clubs with more than two  
19 hundred fifty members, one thousand two hundred fifty  
20 dollars (\$1,250), and for clubs with two hundred fifty  
21 members or fewer, two hundred fifty dollars (\$250);

22 O. wine bottler's license to sell to wholesalers  
23 only, five hundred dollars (\$500);

24 P. public service license, one thousand two  
25 hundred fifty dollars (\$1,250);

1 Q. nonresident licenses, for a total billing to  
2 New Mexico wholesalers:

3 (1) in excess of:

4 \$3,000,000 annually . . . . . \$10,500;  
5 1,000,000 annually . . . . . 5,250;  
6 500,000 annually . . . . . 3,750;  
7 200,000 annually . . . . . 2,700;  
8 100,000 annually . . . . . 1,800;

9 and

10 50,000 annually . . . . . 900;

11 and

12 (2) of \$50,000 or less . . . . . \$300;

13 R. wine wholesaler's license, for persons with  
14 sales of five thousand gallons of wine per year or less,  
15 twenty-five dollars (\$25.00), and for persons with sales in  
16 excess of five thousand gallons of wine per year, one  
17 hundred dollars (\$100); and

18 S. beer bottler's license, two hundred dollars  
19 (\$200). "

20 Section 2. Section 60-6B-2 NMSA 1978 (being Laws 1981,  
21 Chapter 39, Section 38, as amended) is amended to read:

22 "60-6B-2. APPLICATIONS. --

23 A. Before a new license authorized by the Liquor  
24 Control Act may be issued by the director, the applicant for  
25 the license shall:

1 (1) submit to the director a written  
2 application for the license under oath, in the form  
3 prescribed by and stating the information required by the  
4 director, together with a nonrefundable application fee of  
5 two hundred dollars (\$200);

6 (2) submit to the director for his approval  
7 a description, including floor plans, in a form prescribed  
8 by the director, that shows the proposed licensed premises  
9 for which the license application is submitted. The area  
10 represented by the approved description shall become the  
11 licensed premises;

12 (3) if the applicant is a corporation, be  
13 required to submit as part of its application the following:

14 (a) a certified copy of its articles  
15 of incorporation or, if a foreign corporation, a certified  
16 copy of its certificate of authority;

17 (b) the names and addresses of all  
18 officers and directors and those stockholders owning ten  
19 percent or more of the voting stock of the corporation and  
20 the amounts of stock held by each stockholder; provided,  
21 however, a corporation may not be licensed if an officer,  
22 manager, director or holder of more than ten percent of the  
23 stock would not be eligible to hold a license pursuant to  
24 the Liquor Control Act, except that the provision of

25 Subsection D of Section 60-6B-1 NMSA 1978 shall not apply if

1 the stock is listed with a national securities exchange;

2 (c) the name of the resident agent of  
3 the corporation authorized to accept service of process for  
4 all purposes, including orders and notices of the director,  
5 which agent shall be approved by the director with respect  
6 to his character;

7 (d) a duly executed power of attorney  
8 authorizing the agent described in Subparagraph (c) of this  
9 paragraph to exercise full authority, control and  
10 responsibility for the conduct of all business and  
11 transactions of the corporation within the state relative to  
12 the sale of alcoholic beverages under authority of the  
13 license requested; and

14 (e) such additional information  
15 regarding the corporation as the director may require to  
16 assure full disclosure of the corporation's structure and  
17 financial responsibility;

18 (4) if the applicant is a limited  
19 partnership, submit as part of its application the  
20 following:

21 (a) a certified copy of its  
22 certificate of limited partnership;

23 (b) the names and addresses of all  
24 general partners and of all limited partners contributing  
25 ten percent or more of the total value of contributions made

1 to the limited partnership or entitled to ten percent or  
2 more of the profits earned or other income paid by the  
3 limited partnership. A limited partnership shall not  
4 receive a license if any partner designated in this  
5 subsection would not be eligible to hold a license issued  
6 pursuant to the Liquor Control Act; and

7 (c) such additional information  
8 regarding the limited partnership as the director may  
9 require to assure full disclosure of the limited  
10 partnership's structure and financial responsibility; and

11 (5) obtain approval for the issuance from  
12 the governing body of the local option district in which the  
13 proposed licensed premises are to be located in accordance  
14 with the provisions of the Liquor Control Act.

15 B. Every applicant for a new license or for a  
16 transfer of ownership of a license, if an individual or  
17 general partnership, shall file with the application two  
18 complete sets of fingerprints of each individual, taken  
19 under the supervision of and certified to by an officer of  
20 the New Mexico state police, a county sheriff or a municipal  
21 chief of police. If the applicant is a corporation, it  
22 shall file two complete sets of fingerprints for each  
23 stockholder holding ten percent or more of the outstanding  
24 stock, principal officer, director and the agent responsible  
25 for the operation of the licensed business. The

1 fingerprints shall be taken and certified to as provided for  
2 an individual or partnership. If the applicant is a limited  
3 partnership, it shall file two complete sets of fingerprints  
4 for each general partner and for each limited partner  
5 contributing ten percent or more of the total value of  
6 contributions made to the limited partnership or entitled to  
7 ten percent or more of the profits earned or other  
8 compensation by way of income paid by the limited  
9 partnership. The fingerprints shall be taken and certified  
10 to as provided for an individual or partnership.

11 C. Upon submission of a sworn affidavit from  
12 each person who is required to file fingerprints stating  
13 that the person has not been convicted of a felony in any  
14 jurisdiction and pending the results of background  
15 investigations, a temporary license for ninety days may be  
16 issued. The temporary license may be extended by the  
17 director for an additional ninety days if the director  
18 determines there is not sufficient time to complete the  
19 background investigation or obtain reviews of fingerprints  
20 from appropriate agencies. A temporary license shall be  
21 surrendered immediately upon order of the director.

22 D. An applicant who files a false affidavit  
23 shall be denied a license. When the director determines a  
24 false affidavit has been filed, he shall refer the matter to  
25 the attorney general or district attorney for prosecution of

1 perjury.

2 E. If an applicant is not a resident of New  
3 Mexico, fingerprints may be taken under supervision and  
4 certification of comparable officers in the state of  
5 residence of the applicant.

6 F. Before issuing a license, the department  
7 shall hold a public hearing within thirty days after receipt  
8 of the application pursuant to Subsection K of this section.

9 G. An application for transfer of ownership  
10 shall be filed with the department no later than thirty days  
11 after the date a person acquired an ownership interest in a  
12 license. It shall contain the actual date of sale of the  
13 license and shall be accompanied by a sworn affidavit from  
14 the owner of record of the license agreeing to the sale of  
15 the license to the applicant as well as attesting to the  
16 accuracy of the information required by this section to be  
17 filed with the department. A license shall not be  
18 transferred unless it will be placed into operation in an  
19 actual location within one hundred twenty days of issuance  
20 of the license, unless for good cause shown the director  
21 grants an additional extension for a length of time  
22 determined by the director.

23 H. Whenever it appears to the director that  
24 there will be more applications for new licenses than the  
25 available number of new licenses during any time period, a

1 random selection method for the qualification, approval and  
2 issuance of new licenses shall be provided by the director.  
3 The random selection method shall allow each applicant an  
4 equal opportunity to obtain an available license, provided  
5 that all dispenser's and retailer's licenses issued in any  
6 calendar year shall be issued to residents of the state.  
7 For the purposes of random selection, the director shall  
8 also set a reasonable deadline by which applications for the  
9 available licenses shall be filed. A person shall not file  
10 more than one application for each available license and no  
11 more than three applications per calendar year.

12 I. After the deadline set in accordance with  
13 Subsection H of this section, no more than ten applications  
14 per available license shall be selected at random for  
15 priority of qualification and approval. Within thirty days  
16 after the random selection for the ten priority positions  
17 for each license, a hearing pursuant to Subsection K of this  
18 section shall be held to determine the qualifications of the  
19 applicant having the highest priority for each available  
20 license. If necessary, such a hearing shall be held on each  
21 selected application by priority until a qualified applicant  
22 for each available license is approved. Further random  
23 selections for priority positions shall also be held  
24 pursuant to this section as necessary.

25 J. All applications submitted for a license

1 shall expire upon the director's final approval of a  
2 qualified applicant for that available license.

3 K. The director shall notify the applicant by  
4 certified mail of the date, time and place of the hearing.  
5 The hearing shall be held in Santa Fe. The director may  
6 designate a hearing officer to take evidence at the hearing.  
7 The director or the hearing officer shall have the power to  
8 administer oaths.

9 L. In determining whether a license shall be  
10 issued, the director shall take into consideration all  
11 requirements of the Liquor Control Act. In the issuance of  
12 a license, the director shall specifically consider the  
13 nature and number of prior violations of the Liquor Control  
14 Act by the applicant or of any citations issued within the  
15 prior five years against a license held by the applicant or  
16 in which the applicant had an ownership interest required to  
17 be disclosed under the Liquor Control Act. The director  
18 shall disapprove the issuance or give preliminary approval  
19 of the issuance of the license based upon a review of all  
20 documentation submitted and any investigation deemed  
21 necessary by the director.

22 M. Before a new license is issued for a  
23 location, the director shall cause a notice of the  
24 application therefor to be posted conspicuously, on a sign  
25 not smaller than thirty inches by forty inches, on the

1 outside of the front wall or front entrance of the immediate  
2 premises for which the license is sought or, if no building  
3 or improvements exist on the premises, the notice shall be  
4 posted at the front entrance of the immediate premises for  
5 which the license is sought, on a billboard not smaller than  
6 five feet by five feet. The contents of the notice shall be  
7 in the form prescribed by the department, and such posting  
8 shall be over a continuous period of twenty days prior to  
9 preliminary approval of the license.

10 N. A license shall not be issued until the  
11 posting requirements of Subsection M of this section have  
12 been met.

13 O. All costs of publication and posting shall be  
14 paid by the applicant.

15 P. It is unlawful for a person to remove or  
16 deface a notice posted in accordance with this section. A  
17 person convicted of a violation of this subsection shall be  
18 punished by a fine of not more than three hundred dollars  
19 (\$300) or by imprisonment in the county jail for not more  
20 than one hundred twenty days or by both.

21 Q. A person aggrieved by a decision made by the  
22 director as to the approval or disapproval of the issuance  
23 of a license may appeal to the district court pursuant to  
24 the provisions of Section 39-3-1.1 NMSA 1978. If the  
25 disapproval is based upon local option district disapproval

1 pursuant to Subsection H of Section 60-6B-4 NMSA 1978, the  
2 local option district shall be a necessary party to any  
3 appeal. The decision of the director shall continue in  
4 force, pending a reversal or modification by the district  
5 court, unless otherwise ordered by the court. "

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6 Section 3. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2003. \_\_\_\_\_

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